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THE MESSAGE

(Continued From Page One.)

sonable limits to what is regarded generally as best for the common good and that every effort should be made to agree on as much as possible, leaving the rest for future consideration. A minority may be right, but time and further development may be required to convince the majority. Wisdom, patriotism and the spirit of progress forbid that opposition to what is good as far as it goes should be persisted in merely because it does not seem to go far enough.

Moreover, in a matter of this kind, which involves the fundamental law, it is usually neither practicable nor wise to particularize to any great extent. As a rule, except where the nature of the subject requires particularly, it is safer to incorporate only general principles and provisions in an instrument of so brief and permanent a character as a constitution or organic act. It is impossible to foresee all contingencies that may arise, and an instrument that cannot readily be altered from time to time should be broad and adaptable in its scope. The question, moreover, is not merely what may be desired; it is also what may be secured. The viewpoint and methods of Congress must be considered. I transmit herewith a form of a bill which, having its origin in the bill introduced by our delegate in the last Congress, has developed into its present form through changes made from time to time since as a result of much consideration and discussion by Congressional committees, the Territorial Legislature and its committees, the public press, commercial and other organizations and individuals. It has been framed with a view to simplicity, clearness and the elimination of matters most liable to difference of opinion. It is believed that as far as it goes it is in general accord with the principles of all political parties. It is satisfactory to the delegate in form and substance, and I heartily endorse it.

The general nature of the bill is so well understood and its provisions in general are so complete and clear in themselves that detailed explanation is unnecessary. It enlarges the powers of the Legislature; it provides for increases in the salaries of members of the legislature and a number of executive and judicial officers; it settles serious doubts as to the applicability of various Federal laws to Hawaii, the powers of the legislature with reference to appropriations and the validity of numerous naturalizations made by the circuit courts, and other important matters; it improves in several respects the law relating to disqualifications of judges; it provides for the acquisition from the Federal government of the title to property used or required by the Territory and the counties for public purposes; it contains provisions which will facilitate the sale of public bonds at higher prices and lower rates of interest; it makes applicable to Hawaii general Federal appropriations, especially those for the benefit of the smaller agricultural industries.

As its principal feature, however, the bill makes many long-desired and much-needed changes in the land laws of Hawaii. It simplifies the administration of these laws and settles a number of important questions as to their meaning; it provides for giving to persons, of whom there are many, especially Hawaiians and Portuguese, residing on public lands, preference rights to obtain title to their homes; it also provides for settling the title of many churches to the lots which they have long used as church sites; and it places appropriate limitations on the powers of selling, leasing and exchanging large tracts of public land.

The principal changes, however, in the land laws consist in the provisions intended for the furtherance of homesteading; first, by enabling intending settlers to obtain homesteads at reasonable prices by drawings instead of being subjected to the risk of paying excessive prices at auction sales, and by permitting the times limited for compliance with homestead conditions to be extended in proper cases; secondly, by confining the right to acquire homesteads to citizens not already sufficiently provided for; and, thirdly, by preventing aliens, corporations and large land holders from afterwards obtaining control of the homesteaded lands, but at the same time not unduly preventing the homesteader from mortgaging or otherwise transferring the land for proper purposes.

Legislatures in Hawaii have generally risen to the occasion. They have as a rule proved that they can be depended upon, when the exigencies of the situation demand, to put party and other considerations behind the grand motive of the common welfare. Our worthy and capable delegates, while necessarily elected as the candidate of a particular party, is the delegate of the entire Territory, and as such should have undivided support in his earnest endeavors to accomplish what is for the highest interests of the Territory as a whole.

W. F. FREAR,
Governor of Hawaii.**A BILL**

To Amend An Act Entitled "An Act to Provide a Government for the Territory of Hawaii," Approved April Thirtieth, nineteen Hundred.

Be it enacted by the Senate and

House of Representatives of the United States of America in Congress assembled, That Section 5 of an Act entitled "An Act to provide a government for the Territory of Hawaii," approved April thirtieth, nineteen hundred, is hereby amended to read as follows:

"Section 5. That the Constitution, and, except as otherwise provided, all the laws of the United States, including laws carrying general appropriations, which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States: Provided, That sections eighteen hundred and forty-one to eighteen hundred and ninety-one, inclusive, nineteen hundred and ten and nineteen hundred and twelve of the Revised Statutes and the amendments thereto, and an Act entitled "An Act to prohibit the passage of local or special laws in the territories of the United States, to limit territorial indebtedness, and for other purposes," approved July thirtieth, eighteen hundred and eighty-six, and the amendments thereto, shall not apply to Hawaii."

Section 2. That section twenty-six of said Act is hereby amended to read as follows:

"Section 26. That the members of the legislature shall receive for their services, in addition to mileage at the rate of ten cents a mile each way, the sum of six hundred dollars for each regular session, payable in three equal installments on and after the first, thirtieth and fiftieth days of the session, and the sum of two hundred dollars for each special session; Provided, That they shall receive no compensation for any extra session held under the provisions of section fifty-four of this Act."

Sec. 3. That section fifty-two of said Act is hereby amended to read as follows:

"Section 52. That appropriations, except as herein otherwise provided, shall be made by the legislature."

Sec. 4. That section fifty-five of said Act is hereby amended so that the part thereof relating to public indebtedness and beginning with the words "nor shall any debt" shall read as follows: "Nor shall any debt be authorized to be contracted by or on behalf of the Territory, or any political or municipal corporation or subdivision thereof, except to pay the interest upon the existing indebtedness, to suppress insurrection, or to provide for the common defense, except that in addition to any indebtedness created for such purposes the legislature may authorize loans by the Territory, or any such subdivision thereof, for the erection of penal, charitable, and educational institutions, and for public buildings, wharves, roads, and harbor and other public improvements, but the total of such indebtedness incurred in any one year by the Territory or any such subdivision shall not exceed one per centum of the assessed value of the property in the Territory or subdivision, respectively, as shown by the then last assessments for taxation, whether such assessments are made by the Territory or the subdivision or subdivisions, and the total indebtedness of the Territory shall not at any time be extended beyond seven per centum of such assessed value of property in the Territory and the total indebtedness of any such subdivision shall not at any time be extended beyond three per centum of such assessed value of property in the subdivision, but nothing in this Act shall prevent the refunding of any indebtedness at any time; nor shall any such loan be made upon the credit of the public domain or any part thereof; nor shall any bond or other instrument of any such indebtedness be issued unless made payable in not more than thirty years from the date of the issue thereof; nor shall any such bond or indebtedness be issued or incurred until approved by the President of the United States."

Sec. 5. That section seventy-three of said Act is hereby amended by adding thereto the following: "No person shall hereafter be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement, who or whose husband or wife shall previously have taken or held any land under any such certificate, lease, or agreement hereafter made or issued, or under any homestead lease or patent based thereon; or who or whose husband or wife, or both of them, shall then own other land in the Territory, the combined area of which and the land in question exceeds eighty acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law; nor shall any person who, having so declared his intention, shall hereafter take or hold under such certificate, lease or agreement, continue so to hold or become entitled to a homestead lease or patent of the land, unless he shall have become a citizen within five years after so taking.

"No land for which any such certificate, lease or agreement shall hereafter be issued, or any part thereof or interest therein or control thereof, shall, without the written consent of the commissioner and governor, thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise, conveyed, mortgaged, leased or otherwise transferred to or acquired or held by or for the benefit of any alien or corporation; or, before or after the issuance of a patent, to or by or for the benefit of any other person; or, after the issuance of a patent, to or by or for the benefit of any person who owns, holds or controls directly or indirectly other land or the use thereof the

combined area of which and the land in question exceeds eighty acres: Provided, that these prohibitions shall not apply to transfers or acquisitions by inheritance or between tenants in common.

"Any land in respect of which any of the foregoing provisions shall be violated shall forthwith be forfeited and resume the status of public land and may be recovered by the Territory or its successors in an action of ejectment or other appropriate proceeding. And non-compliance with the terms of any such certificate, lease, or agreement, or of the law applicable thereto, shall work a forfeiture of all rights thereunder and entitle the commissioner, with the approval of the governor, with or without legal process, notice, demand or previous entry, to retake possession and thereby determine the estate. Provided, That the times limited for compliance with any such terms may be extended by the commissioner, with such approval, upon its appearing that an effort has been made in good faith to comply therewith.

"The persons entitled to take under any such certificate, lease or agreement, may be determined by drawing or lot, after public notice as hereinafter provided; and any lot not taken, or taken and forfeited, or any lot or part thereof surrendered with the consent of the commissioner, which is hereby authorized, may be disposed of upon application at not less than the advertised price by any such certificate, lease or agreement without further notice. The notice of any sale, drawing or allotment of public land shall be by publication for a period of not less than sixty days in one or more newspapers of general circulation published in the Territory.

"The commissioner, with the approval of the governor, may give to any person who has, or who and whose predecessors in interest have, improved any parcel of public land and resided thereon not less than ten years immediately preceding the date of application a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a fair price to be determined by three disinterested persons appointed by the governor. In the determination of which price the value of improvements shall, when deemed just and reasonable, be disregarded.

"The commissioner may also, with such approval, issue for a nominal consideration, to any church or religious organization, or person or persons or corporation representing it, a patent for any parcel of public land occupied continuously for not less than ten years heretofore and still occupied by it as a church site under the laws of Hawaii.

"No sale for other than homestead purposes and no exchange, by which the Territory shall convey land exceeding either forty acres in area or five thousand dollars in value, and no lease of agricultural land exceeding forty acres in area, shall be made without the approval of two-thirds of a board appointed as provided in section eighty of this Act, and until the legislature otherwise provides said board shall consist of six members and its members be appointed for terms of four years.

"All lands in the possession, use and control of the Territory shall hereafter be managed by the commissioner, except such as shall be set aside for public purposes as hereinafter provided; all sales and other dispositions of such land shall be made by the commissioner or under his direction, for which purpose, if necessary, the land may be transferred to his department from any other department by direction of the governor, and all patents and deeds of such land shall issue from the office of the commissioner, who shall countersign the same and keep a record thereof. Lands conveyed to the Territory in exchange for other lands that are subject to the land laws of Hawaii, as amended by this Act, shall, except as otherwise provided, have the same status and be subject to such laws as if they had previously been public lands of Hawaii. All orders setting aside lands for forest or other public purposes, or withdrawing the same, shall be made by the governor, and lands while so set aside for such purposes may be managed as may be provided by the laws of the Territory. The commissioner is hereby authorized to perform any and all acts, prescribe forms of oaths, and, with the approval of the governor and said board, make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this section and the land laws of Hawaii into full force and effect.

Sec. 6. That section eighty-four of said Act is hereby amended to read as follows:

"Sec. 84. That no person shall sit as a judge or juror in any case in which his relative by affinity or by consanguinity within the third degree is interested, either as a plaintiff or defendant, or in the issue of which the said judge or juror has, either directly or through such relative, any pecuniary interest, nor shall any person sit as a judge in any case in which he has been of counsel or on an appeal from any decision of judgment rendered by him, and the legislature of the Territory may add other causes of disqualification to those herein enumerated."

Sec. 7. That section ninety-one of said Act is hereby amended to read as follows:

"Sec. 91. That, except as otherwise provided, the public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight, shall be and remain in the possession, use, and control of the government of the Territory of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken

for the uses and purposes of the United States by direction of the President or the governor of Hawaii. And any such public property so taken for the uses and purposes of the United States may be restored to its previous status by direction of the President; and the title to any such public property in the possession and use of the Territory for the purposes of water, sewer, electric and other public works, penal, charitable, scientific, and educational institutions, cemeteries, hospitals, parks, highways, wharves, landings, harbor improvements, public buildings, or other public purposes, or required for any such purposes, may be transferred to the Territory by direction of the President, and the title to any property so transferred to the Territory may thereafter be transferred to any city, county, or other political subdivision thereof, by direction of the governor when thereunto authorized by the legislature."

Sec. 8. That section ninety-two of said Act is hereby amended to read as follows.

"Sec. 92. That the following officers shall receive the following annual salaries to be paid by the United States: The governor, ten thousand dollars; the secretary of the Territory, five thousand dollars; the chief justice of the supreme court of the Territory, six thousand five hundred dollars; the associate justices of the supreme court, six thousand dollars each; the judges of the circuit courts, four thousand dollars each; the United States district attorney, five thousand dollars; the United States Marshal, four thousand dollars. And the governor shall receive annually, in addition to his salary, the sum of one thousand dollars for stationery, postage, and incidentals; also his traveling expenses while absent from the capital on official business, and the sum of two thousand dollars annually for his private secretary."

Sec. 9. That section one hundred of said Act is hereby amended by adding thereto the following:

"All records relating to naturalization, all declarations of intention to become citizens of the United States, and all certificates of naturalization filed, recorded, or issued prior to the taking effect of the naturalization act of June twenty-ninth, nineteen hundred and six, in or from any circuit court of the Territory of Hawaii, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this Act further validated or legalized."

A MESSAGE FROM THE GOVERNOR

Territory of Hawaii,
Executive Chamber,
November 2, 1909.

To The Senate:—

I have the honor to submit herewith for your consideration the following nominations and appointments subject to confirmation by your honorable body.

W. F. FREAR,
Governor of Hawaii.

Nominations and Appointments by the Governor Subject to Confirmation by the Senate.

TREASURER.

David L. Conkling.....June 30, 1909.

COMMISSIONER OF PUBLIC LANDS.

Marston Campbell.....June 30, 1909.

SURVEYOR.

Marston Campbell.....June 30, 1909.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

Winifred H. Babbitt.....November 1, 1909.

DEPUTY AUDITOR.

George W. R. King.....November 1, 1909.

COMMISSIONERS OF PUBLIC INSTRUCTION.

Ella H. Paris.....April 30, 1909.

Mason F. Prosser.....September 25, 1909.

BOARD OF HEALTH.

James T. Wayson.....May 1, 1909.

William D. Baldwin.....May 13, 1909.

Frederick S. Smith.....May 15, 1909.

COMMISSIONERS OF IMMIGRATION

Richard Ivers.....April 30, 1909.

Ernest A. Mott-Smith.....April 30, 1909.

Ernest H. Wodehouse.....April 30, 1909.

A. L. C. Atkinson.....April 30, 1909.

J. J. Carden.....May 7, 1909.

COMMISSIONERS OF INSANITY.

Alexander Lindsay, Jr.....June 4, 1909.

Charles B. Cooper.....Sept. 13, 1909.

George H. Herbert.....Nomination.

REGENTS OF THE COLLEGE OF AGRICULTURE AND MECHANIC ARTS.

Ralph S. Hoamer.....June 1, 1909.

George W. Woodruff.....Nomination.

TRUSTEES OF THE LIBRARY OF HAWAII.

William L. Whitney.....April 30, 1909.

Frank C. Atherton.....April 30, 1909.

Winifred H. Babbitt.....April 30, 1909.

PRIVATE WHARVES AND LANDING COMMISSION.

Delbert E. Metzger.....July 19, 1909.

Hugh Newell.....July 19, 1909.

John H. Moragne.....July 19, 1909.

SCHOOL FUND COMMISSION.

Wallace R. Farrington.....June 29, 1909.

William A. Bowen.....June 29, 1909.

Edgar Wood.....June 29, 1909.

COMMISSION ON STAMP DUTIES AND LICENSES.

William L. Stanley.....Nomination.

G. Fred Bush.....Nomination.

Richard H. Trent.....Nomination.

BOARD OF PHARMACY.

Ferdinand F. Hedemann.....Nomination.

Samuel S. Pack.....Nomination.

Alexis J. Gignoux.....Nomination.

LICENSE COMMISSIONERS.

City and County of Honolulu.

Willard E. Brown, Second Class.....

.....June 30, 1909.

J. H. Craig, Second Class.....

.....June 30, 1909.

Norman Watkins, First Class.....

.....September 13, 1909.

County of Hawaii.

Albert Horner, Second Class.....

(Continued on Page seven)

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